



Appeal Decision

Site visit made on 18 December 2024

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/R3650/W/24/3344272

Waterbridge Farm, Knowle Lane, Cranleigh, Surrey GU6 8JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Carmen O'Connor against the decision of Waverley Borough Council.
 - The application Ref is WA/2022/03158.
 - The development proposed is 5 x 2 bed bungalows following demolition of existing buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development upon protected species;
 - whether or not the proposed development would provide satisfactory living conditions for the occupiers of Plots 1 and 4 with particular reference to private outdoor space;
 - whether or not the proposed development would be consistent with the spatial strategy and in a suitable location for access by non-car modes to services and facilities;
 - the effect of the proposed development upon highway safety; and,
 - the effect of the proposed development upon the character and appearance of the area.

Reasons

Protected species

3. Bats are protected under the Wildlife and Countryside Act 1981 (as amended). The appellant's Bat Roost Potential Report (the BRPR) confirms that while the greenhouses and three of the outbuildings to be demolished had a negligible potential for roosting bats, one building exhibited moderate potential. That building has a cavity between internal and external walls and there were external gaps that could potentially permit bat access to the internal spaces.
4. The BRPR confirms the building is very close to high quality foraging habitat. It states that to inform a planning application it will be necessary to determine if the building does support any bat roosts and to determine the type and

status of the roost, if present. For moderate potential buildings the BRPR confirms that guidelines are for two emergence and/or dawn re-entry surveys.

5. The footnote to paragraph 192 of the National Planning Policy Framework (2024) (the Framework) refers to Circular 06/2005. This states that it is essential the presence or otherwise of protected species, and the extent that they may be affected is established before permission is granted, otherwise all relevant material considerations may not have been addressed. However, protected species surveys should not be required unless there is a reasonable likelihood of them being present and affected by the development.
6. The substantive evidence in the BRPR points towards a reasonable likelihood of bats being present and affected by the development. Based upon what I saw and the evidence before me, it is not adequately addressed whether or not bats are roosting, and if so, the numbers, species or characteristics of any roosts. Therefore, the proposal could have an unacceptable effect upon bats, and it is not possible to determine whether or not any effects could be adequately mitigated or compensated, and if and how this might be achieved. In consequence, this matter cannot be addressed by planning conditions.
7. While I note the evidence provided in respect of dwellings nearby¹, none proposed the demolition of this particular building. The evidence in respect of WA/2021/02158 also indicates there were emergence surveys submitted. Therefore, in-light of the evidence submitted and the guidance in 06/2005, the approval of those developments does not justify allowing this appeal.
8. The Council refers to the potential effects upon Great Crested Newts (GCN) noting a pond previously identified as having excellent suitability². From the submissions this appeared some distance from the appeal site and there is a large area of hardstanding between it and the site. The appellant's recent eDNA analysis³ indicates a negative finding for that pond, which the Council does not dispute. Based on the latest evidence, it appears unlikely that GCN are likely to be present and affected by the development.
9. However, for the reasons set out above, I cannot be certain the proposal would not cause unacceptable harm to bats, as protected species. The proposal conflicts with Policy NE1 of the Local Plan Part 1 (2018) (the LPP1) and Policy DM1(g) of the Local Plan Part 2 (2023) (the LPP2), which require that any adverse impacts upon biodiversity are avoided, or if unavoidable, adequately mitigated. It would conflict with paragraph 193 of the Framework, which states that if significant harm to biodiversity cannot be avoided, adequately mitigated, or compensated for, then permission should be refused.

Living conditions

10. Policy DM5 of the LPP2 requires that development should demonstrate it provides adequate external space to ensure an appropriate living environment. It seeks that developments should provide external amenity spaces for each dwelling that are private, useable, and where a private garden is proposed it should be at least 10m in depth and the width of the dwelling. The supporting text indicates activities that should be capable of being undertaken in order to support the health and well-being of occupiers.

¹ Refs WA/2022/00826, WA/2021/02156, WA/2021/02158, WA/2021/02157.

² Bat Roost Potential and Habitat Suitability Index Survey by Sylvatica Ecology (15 May 2021).

³ GCN Report – Technical Report dated 17.07.2024.

11. I regard the size requirements as indicative, and each space should be considered on its own merits, and balancing them with matters such as Framework policies for the efficient use of land. Though the Council's report sets out a view that four of the five private gardens would be at least 50% short of the specified depth, it only sets out a substantive analysis in respect of plots 1 and 4, so I have confined my consideration to these two spaces.
12. Despite its good width, most of the plot 1 rear garden would be approximately 5m deep, with a very sizeable proportion of the space enclosed by the rear wall and roof of the dwelling to its north. A large proportion of the plot 1 space would feel highly enclosed and would be likely to be shaded for much of the day, restricting functionality and useability. This would not provide a satisfactory private outdoor space and is not likely to meet the objective of supporting the health and well-being of the future occupiers of plot 1.
13. A large extent of the north and the east of the plot 4 garden space would be particularly narrow. Despite its overall square meterage, significant width and pleasant outlook, the space as a whole would have very limited useability and functionality. It would not provide a satisfactory private outdoor space and is highly unlikely to meet the objective of supporting the health and well-being for its future occupiers.
14. The front communal space would lack privacy, so its use would not adequately replace the functionality of private space. The situation of future occupiers past properties is not certain. That these new properties could be sold is not necessarily an indicator of providing appropriate private garden that supports the health and well-being referenced in the DM5 supporting text and sought by Framework paragraph 135f). From the plans of Partridge Lane those spaces do not appear to have the same sense of enclosure as Plot 1, or extent of narrowness as Plot 4, so do not appear to be directly comparable. Moreover, the balance of other material considerations in that decision is unclear.
15. Therefore, for the reasons set out above, the proposed development would not provide satisfactory living conditions for the future occupiers of plots 1 and 4 with particular reference to private outdoor space. This would conflict with Policy DM5 of the LPP2, the relevant provisions of which are set out above. Though referred to in its assessment report, as the Council's reason for refusal does not cite Policy DM1 of the LPP2, I have not concluded against it.

Access to services and facilities

16. Policy SP2 of the LPP1 outlines a spatial strategy that seeks to ensure that development needs are met in a sustainable manner. This proposal avoids major development on land of the highest amenity and landscape value and the evidence suggests the main parties agree the surrounding collection of buildings are a settlement, and it is not isolated having regard to Framework paragraph 84. However, the evidence does not demonstrate they can be regarded as a 'village' for the purposes of criteria 3) – 5). If the appeal site was previously developed land (PDL), it might be regarded as a suitable brownfield site under 6). However, I am told the lawful use of the site is agricultural, which is excluded from the definition of PDL in the Framework.
17. Policy DM15 of the LPP2 states that development should not be isolated from everyday services and facilities, while maximising opportunities for walking and cycling, and avoiding dependency on private vehicles, taking account of

the nature and functional needs of development acceptable in rural areas. Policy ST1 of the LPP1 seeks that development is located where opportunities for sustainable transport modes can be maximised, reflecting the amount of movement generated, and recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

18. The appeal site is approximately 1.2km from the edge of Cranleigh, 3.1km from Alford Crossroads and 3.8km from Rudgwick. While Cranleigh is well served by services and facilities, the site is over a 2km journey from most services and facilities. A significant part of Knowle Lane does not have a continuous footway, streetlighting, is quite narrow and in part has a 40mph speed limit. Verges for refuge are limited. As a route to Cranleigh, I consider it would have little appeal to pedestrians, and limited appeal to cyclists.
19. Downs Link offers a more comfortable route, but still involves a part of Knowle Lane to reach it. It increases journey distance, is largely unlit and quite secluded. It would be likely to be of limited appeal for many journeys by future occupiers. Though the HTN indicates incentivisation for the use of public transport may be possible, the nearest bus stops appear to be a significant distance from the appeal site along the highway, as the journey to Cranleigh.
20. I do not agree the development would be totally car dependant. However, due to the nature of the routes and distances, over the course of a typical year it is likely that the majority of journeys to services and facilities would be by private vehicles. While it might not be regarded as isolated from a settlement in the terms of paragraph 84 of the Framework, it is somewhat isolated from many services and facilities, and the development would result in a significant number of additional motor vehicle journeys and miles per year.
21. Given the charging facilities proposed, it is very possible that some future occupiers will use ultra-low and zero emission vehicles, and their uptake will increase in time. However, the rate of short to medium term uptake is not guaranteed and I am not provided with assurances a travel plan, or other conditioned mechanisms can secure journeys to and from the site will only be by such means. However, subject to suitably worded conditions, the site could provide for some adaption to the transition to low or zero emission vehicles.
22. The full details and evidence submitted in respect of the appeal at Harrier Farm⁴ are not before me. However, the appellant's evidence implies that site is 1.3km further from Cranleigh than this scheme. I also consider the use of sustainable transport modes is unlikely to be negligible for this appeal scheme. Therefore, the two schemes are not directly comparable.
23. Though pre-dating the current Framework, Policy SP2 and ST1 still have a good degree of consistency with the aims of Framework paragraphs 109, 110 and 115a). SP2 seeks to deliver development in a sustainable manner and direct development to such locations. Policy ST1 seeks development is located where sustainable transport modes can be maximised, and that development is located where opportunities can be maximised for the use of sustainable transport. It specifically recognises that opportunities for sustainable transport will vary between rural and urban areas. I am satisfied the policies should still attract full weight.

⁴ Ref. APP/R3650/W/22/3302676.

24. The appellant cites a previous appeal decision⁵ in advocating there is nothing in Policy SP2 to prevent this appeal development, to which the Council does not appear provide substantive counter evidence. However, insofar as it seeks that development needs are met in a sustainable manner, the location of this development and likely limited use of sustainable transport modes is not fully consistent with a policy to meet development needs in a sustainable manner.
25. Applications have been approved nearby in recent years⁶ for single dwellings. As this appeal scheme is for 5 dwellings with an equivalent greater number of likely journeys possible, this appeal scheme does differ. Therefore, though I give the past approvals some weight, those decisions do not justify a finding of no conflict with the policies referred to above. I note the appellant's reference to caselaw⁷ in respect of the exercise of judgement and development plans being broad statements of planning policy some of which may be mutually irreconcilable, which is a matter to be considered in the overall balance.
26. While the appeal site location does not appear to be specifically precluded by the spatial strategy criteria, on-balance, it would not be in a suitable location for access by non-car modes to services and facilities. In this regard it would conflict with the aims of Policies SP2 and ST1 of the LPP1 and Policy DM15 of the LPP2, the relevant provisions of which are set out above.

Highway safety

27. The appeal scheme would use an existing access onto Knowle Lane, which in this location has a 40mph speed limit. The access already serves a limited number of dwellings existing and recently approved. In assessing the highway effects of the proposal, the appellant sets out the existing lawful use and other potential fall-back positions available from the access, including following a permission having been granted to install cladding to the greenhouses.
28. One fall-back is under Class R of the GPDO⁸ for up to 150m² of B1 floorspace. The Council considers this unviable and unusable without other development. From what I saw and the evidence before me, there is no substantive evidence advanced that would lead me to a different view. The appellant considers if this was implemented, they could obtain approval for 5 dwellings under Class Q, with smaller gardens, less biodiversity and poorer layout. Developing such a consent would be a significant undertaking with associated financial costs. I also note a previous Class Q conversion was refused⁹. For all these reasons, and without further substantive details demonstrating all the parameters of Class Q would be met, the fall-back positions attract limited weight.
29. I note the intention to maximise the site and the potential for the re-use of the horticultural nursery or a similar type of use and related vehicle movements. However, there is little further evidence of the likelihood of this occurring. The feasibility and viability of this is unclear having regard to matter such as site and building condition. While this appeal scheme could result in less vehicle movements and HGV's than some of the fall-back positions, the evidence is not compelling the fall-backs will take place if this appeal is dismissed. In consequence, the fall-back positions attract limited weight.

⁵ Ref. APP/R3650/W/21/3278196.

⁶ Refs WA/2022/00826, WA/2021/02156, WA/2021/02158, WA/2021/02157.

⁷ [2012] JUDGMENT, UKSC 13 Tesco Stores Limited (Appellants) v Dundee City Council (Respondents) (Scotland).

⁸ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

⁹ Ref. PRA/2022/00686.

30. The splays and the widths of access required to be demonstrated, including for vehicles to safely pass, is unclear. Around the access is made land just off the carriageway in front and either side of two brick gate pillars, which would provide some visibility to drivers entering and leaving. Not all of this is within the appeal site, and it is unclear if this is within the public highway, or under a different party's control. However, despite the absence of details, based upon what I saw and the evidence before me, I see no reason why subject to the imposition of suitably worded pre-commencement planning conditions, a safe and satisfactory access could not be achieved. On this basis, the development would not be prejudicial to highway safety.
31. For the reasons set out above, subject to the imposition of suitably worded planning conditions, the proposed development would not be prejudicial to highway safety. On this basis it would not conflict with the aims of Policy DM9 of the LPP2, which requires that development does not adversely increase the risk of accidents or endanger the safety of road users. It would also not conflict paragraph 116 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact upon highway safety.
32. As the policy text does not directly reference highway design and safety, I have not concluded against Policy ST1 of the LPP1 under this main issue.

Character and appearance

33. Within the vicinity of the appeal site, the character and appearance of the area can be characterised as primarily one of a rural landscape that includes agricultural, domestic and other rural buildings accessed off country lanes, with a partially wooded and sylvan backdrop. The site glasshouses and smaller workshop type buildings are not usual in such a landscape. However, their size, quality and degree of disrepair means that overall, the site makes a minor negative contribution to the area's character and appearance.
34. The proposed new buildings would be of an appropriate height and massing and the development would utilise a suitable palette of materials. Some parts of the buildings are particularly close to the edge of the site, which is reflected in the generally quite shallow awkward private amenity spaces of two of the dwellings. The layout has limited openness around some of the buildings in a location where the openness is a positive attribute of the area.
35. In-light of the foregoing, the development could be regarded as appearing somewhat cramped in relation to its surrounds. However, the existing appeal site and its buildings are in a poor condition, and these are sizeable structures some of which are very close to the appeal site boundaries. In comparing the existing and proposed site layout, building sizes, heights and spaces between built elements, as a matter of planning judgement, the appeal scheme would result in an overall limited benefit in this regard.
36. I note the Council's concerns in respect of the layout with no front garden or landscaped spaces along the front facades of the dwellings, creating a large area of hardstanding that it considers quite a dominant and urbanising form of development. In principle, a loose courtyard layout would not be out of keeping with the character and appearance of this area. I saw not dissimilar hardstanding areas north and east of the appeal site, so such areas are not uncharacteristic of the surrounds.

37. I see no reason why this could not be reduced by landscaping to the front of dwellings, secured by a suitably worded planning condition. On this basis as a matter of judgement the appeal scheme would not appear strident in this regard. Taking into consideration the existing site and the appeal scheme as a whole, I consider there would be a limited overall benefit to the character and appearance of the area.
38. For the reasons set out above, the proposed development would not be harmful to the character and appearance of the area. It would not conflict with Policies TD1 and RE1 of the LPP1 and Policies DM4a) and DM15 of the LPP2. These require that development respects the intrinsic, distinctive and undeveloped character and natural beauty of the countryside and is of a high-quality design that responds to local character. I have not concluded against Policy DM5 in respect of this main issue as this primarily relates to living conditions, which I have considered under a separate main issue.

Other Matters

39. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) I must have special regard to the desirability of preserving the setting of listed buildings or any features of special architectural or historic interest they possess. Paragraphs 212 and 213 of the Framework require when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation, and any harm to significance, including from development within its setting, requires clear and convincing justification.
40. The appeal site is within the setting of the Grade II listed Waterbridge Farmhouse and associated curtilage listed structures. The listing describes the farmhouse as a 16th century timber framed building with 17th century additions. Although the Heritage Statement indicates it to be of 14th century origins. It is two stories with attics, in a T-shape plan. The frame sits on a rendered plinth, is clad in hanging tile with club pattern bands under a plain tiled roof. It has a gabled, whitewashed-brick porch with arched entrance over a plank door. The interior includes substantial timbers of historic interest.
41. To its south is the former farmyard flanked by a barn with an attached cart shed and stables. The barn is a 4-bay weather-boarded timber-framed structure built over a brick plinth under a clay tiled half hipped roof, of late 18th or early 19th century origin, originally used as a threshing barn. The 19th century single-storey cart shed is timber-framed, on a brick plinth with horizontal weatherboard cladding under a hipped clay-tiled. The converted stable is a 19th century brick building with a clay-tiled pitched roof that appears to sit on earlier stone foundations.
42. The farmhouse's special architectural and historic interest derives from its strong historic and evidential values illustrating changes in domestic life and social habits. It has aesthetic value and is a good example of vernacular construction as the building reflects the materials, techniques, and craftsmanship of its regional typology and how this changed over time. The outbuildings also have strong aesthetic, historic and evidential values, reflecting early farming practices. Together they form part of a historic farmstead reflective of the historic rural origins of that site.

43. The asset's setting includes residential gardens, tree cover, agricultural land to the south, and the appeal site. The setting contributes to its significance as it is part of the historic rural and agrarian landscape with which the buildings are viewed, associated with, and reflective of their historic function and landscape setting. The appeal site was open farmland until sometime between 1948–74 when it became a nursery, and currently does not contribute to the special interest of the asset. Though agricultural in appearance, the site makes a minor negative contribution to the way in which the asset is experienced.
44. The appeal proposal would add more hard landscaping, vehicle movements, light, and domestic paraphernalia, but as it would be quite contained, many of the domestic elements would not be prominently visible when experiencing the asset. It would also replace the large, somewhat aged site buildings, with well-designed single storey dwellings that reflect a traditional farmstead type layout, around a loose courtyard. On-balance, subject to high-quality materials being used in the external construction, the appeal scheme would result in a limited beneficial effect to the setting of the heritage asset. Therefore, it would not conflict with the aims of the LBCAA or the Framework and would result in a limited benefit to be weighed in the overall balance.

Planning Balance

45. The proposal would result in a moderate temporary economic benefit during construction and once complete limited on-going benefits to the local economy, including through on-going spend, and contributions to the vitality of local and rural communities, services, and facilities. While its latest Housing Delivery Test result is around 154%, the Council is understood to be unable to demonstrate a 5-year housing land supply (HLS), so the policies most important to determining the application are considered out of date. The appellant informs me the Council's HLS situation has worsened.
46. The appeal scheme is a small to medium sized development that might be built out relatively quickly. It would contribute to the objective of significantly boosting the supply of homes and would meet various Framework policies and objectives, in a plan area constrained by a National Landscape and Green Belt. While being for only five dwellings, were the shortage in HLS to be particularly acute as suggested, the social benefits to supply, would attract significant weight in favour of the appeal scheme.
47. There would be an overall limited benefit to the setting of heritage assets and to the character and appearance of the area. There might be some benefit from remediation of contamination which could be secured by suitably worded conditions. The appeal scheme might also be able, subject to suitably worded conditions, secure improved landscaping and an overall biodiversity net gain. However, it is not demonstrated this would be anything other than a limited benefit. Energy efficiency and renewable energy measures could be secured. However, it is unclear if these would off-set overall consumption or provide a net energy generation benefit. Even were the latter the case, the benefits at best are likely to be limited. Overall, the benefits attract significant weight in favour of the appeal scheme.
48. Compliance with policies in respect of matters such as the living conditions of neighbouring occupiers and the living conditions of future occupiers not referenced under the main issues above, would be neutral matters in the

balance. On the basis a safe and suitable access can be achieved, this would also be a neutral matter.

49. However, it has not been demonstrated the proposal would not result in unacceptable harm to a protected species, which is a conflict of a high order. The development would also not provide satisfactory living conditions to the future occupiers of plots No 1 and 4, which attracts significant weight against the scheme. It would be in a location with limited access to services and facilities by sustainable transport modes. Having regard to the nature of the development plan policy conflicts and distances involved the conflict with the policies attracts limited weight against the appeal scheme.
50. Overall, the harm and policy conflicts from the proposed development attract very significant weight against the scheme. This is such that it significantly and demonstrably outweighs the benefits of the development when assessed against the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

51. The proposed development would be contrary to the development plan read as a whole, and the Framework read as a whole. There are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Mr D Szymanski

INSPECTOR